

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:  Kittery Point Partners, LLC,  Debtor	Chapter 11 Case No. 17-20316
Kittery Point Partners, LLC,  Plaintiff  v.  Bayview Loan Servicing LLC & Todd Enright,  Defendants	Adv. Proc. No. 17-2065

**ORDER GRANTING MOTIONS TO DISMISS  
AND GRANTING LEAVE TO FILE AMENDED COMPLAINT**

For the reasons set forth in the Memorandum of Decision issued this same date, the Court hereby grants the motions to dismiss filed by Bayview Loan Servicing [Dkt. No. 21] and Todd Enright [Dkt. No. 18] under Fed. R. Civ. P. 12(b)(6) on the following terms:

- Count I is dismissed under the doctrine of claim preclusion. The dismissal will not, however, preclude Kittery Point from later objecting to Bayview's proof of claim on grounds other than the state law theories of lack of consideration and lack of corporate existence.
- Count II is dismissed under the doctrine of estoppel by after-acquired property.
- Counts III is dismissed as untimely filed.
- Count IV is dismissed on statute of limitations grounds.
- Count V is dismissed as a duplicative claim.
- Count VI is dismissed as to Bayview, with Kittery Point's consent. That count is dismissed without prejudice as to Enright, for failure to plead with the requisite degree of particularity.
- Count VII is dismissed as to Bayview on statute of limitations grounds. That count is dismissed without prejudice as to Enright, for failure to plead with the requisite degree of particularity.
- Count VIII is dismissed for failure to state a claim.

Kittery Point is given leave to file a further amended complaint repleading the counts that have been dismissed without prejudice. If Kittery Point elects to file such a pleading, it must be submitted no later than March 23, 2018.

The Court will hold a status conference in this proceeding on April 2, 2018 at 11:00 a.m. at the United States Bankruptcy Court in Bangor, Maine. During that conference the Court will establish procedures for the further conduct of this adversary proceeding, including the establishment of a deadline for the defendants to submit answers to any timely-filed further amended complaint. Telephonic participation is permitted.



Date: March 9, 2018

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Michael A. Fagone  
United States Bankruptcy Judge  
District of Maine